

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO No.4774 of 2015 (O&M)

Date of Decision: 01.10.2018

Sucha Singh and others

... Appellants

Versus

Safi Mohammad and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Tarun Vir Singh Lehal, Advocate,
for the appellants.

Mr. Vishal Satija, Advocate for
Mr. Vivek K. Thakur, Advocate,
for respondent Nos.1 and 2.

Mr. Sanjeev Kodan, Advocate,
for respondent No.3-Insurance Company.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is a claimants' appeal seeking enhancement of compensation.

Briefly, it may be noticed that a claim petition was filed under Section 166 of the Motor Vehicles Act seeking compensation to the tune of Rs.20 lakhs on account of death of Harsimranpreet Kaur in a motor vehicle accident that took place on 04.06.2014.

Claimants were the parents as also younger sister of the deceased.

Claimants had asserted that on the date of the accident i.e. 04.06.2014, Harsimranpreet Kaur (since deceased) was proceeding on a scooter being driven by her aunt Baljit Kaur and they were struck by a commercial vehicle bearing registration No.

HP-19-C-2077 and as a result of which both the driver as also pillion rider sustained grievous injuries and succumbed to the same.

The Motor Accident Claims Tribunal, Rupnagar vide award dated 13.02.2015 has awarded a compensation amount of Rs.3,15,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization. The liability of paying the compensation amount was held to be joint and several. The compensation amount has been awarded in favour of the parents i.e. claimant Nos.1 and 2. Claimant No.3 i.e. younger sister of the deceased has been held to be not entitled to any compensation.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard counsel for the appellants as also Mr. Kodan learned counsel representing the contesting respondent Insurance Company.

During the course of arguments, it has gone uncontroverted that Harsimranpreet Kaur at the time of accident was 10 years old and was a student of 4th class.

The Apex Court in ***Kishan Gopal and another Vs. Lala and others, 2013 (4) R.C.R. (Civil), 276*** had considered the aspect of quantum of compensation pertaining to the death of a 10 year old boy and had held as follows:

“For this purpose, it would be necessary for us to refer to Second Schedule under [Section 163-A](#) of the M.V. Act, at clause No.6 which refers to notional income for compensation to those persons who had no income prior to accident. The relevant

portion of clause No.6 states as under:

“6. Notional income for compensation to those who had no income prior to accident:

.....

(a) Non-earning persons – Rs.15,000/- p.a.”

The aforesaid clause of the Second Schedule to [Section 163-A](#) of the M.V. Act, is considered by this Court in the case of [Lata Wadhwa & Ors. v. State of Bihar & Ors.](#), 2001 (4) R.C.R (Civil), 673, while examining the tortuous liability of the tort-feasor has examined the criteria for awarding compensation for death of children in accident between age group of 10 to 15 years and held in the above case that the compensation shall be awarded taking the contribution of the children to the family at Rs.12,000/- p.a. and multiplier 11 has been applied taking the age of the father and then under the conventional heads the compensation of Rs.25,000/- was awarded. Thus, a total sum of Rs.1,57,000/- was awarded in that case. After noting the submission made on behalf of TISCO in the said case that the compensation determined for the children of all age groups could be double as in its view the determination made was grossly inadequate and the observation was further made that loss of children is irrecoupable and no amount of money could compensate the parents. Having regard to the environment from which the children referred to in that case were brought up, their parents being reasonably well-placed officials of TISCO, it was directed that the compensation amount for the children between the age group of 5 to 10 years should be three times. In other words, it should be Rs.1.5 lakhs to which under the conventional heads a sum of Rs.50,000/-

*should be added and thus total amount in each case would be Rs.2 lakhs. Further, in the case referred to supra it has observed that in so far as the children of age group between 10 to 15 years are concerned, they are all students of Class VI to Class X and are children of employees of TISCO and one of the children was employed in the Company in the said case having regard to the fact the contribution of the deceased child was taken Rs.12,000/- p.a.appears to be on the lower side and held that the contribution of such children should be Rs.24,000/- p.a. In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all fours is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years' old, who was assisting the appellants in their agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non- earning member prior to the date of accident was fixed at Rs.15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the afore said reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of **Sarla Verma v. Delhi Transport Corporation**, 2009 (3) R.C.R (Civil) 77: 2009(3) Recent Apex Judgments (R.A.J.) 373: (2009) 6 SCC 121, the multiplier of 15 can be applied to the multiplicand.*

Thus, 30,000 x 15 = 4,50,000/- and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176, which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."

The observations made by the Apex Court in **Kishan Gopal's case (supra)** would apply even to the facts and circumstances of the instant case. Accordingly, the compensation amount awarded by the Tribunal on account of death of Harsimranpreet Kaur aged 10 years is enhanced from Rs.3,15,000/- to 5 lakh.

The enhanced compensation amount be released in favour of the claimants/appellants along with interest @ 6% per annum from the date of filing of the claim petition till actual realization.

Appeal is allowed in the aforesaid terms.

01.10.2018
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No